

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

NICLAS FOSTER for the ESTATE OF)	
MEIKE FOSTER,)	
)	
Plaintiff,)	
)	
vs.)	No. 2:17-cv-01727-JCC
)	
AMERICAN HONDA MOTOR COMPANY, INC.,)	
et al.,)	
)	
Defendants.)	

Deposition Upon Oral Examination Of
GRZEGORZ BUCZKOWSKI

1 o'clock p.m.
June 27, 2019
810 Third Avenue
Seattle, Washington

REPORTED BY: Yvonne A. Gillette, CCR No. 2129.

A P P E A R A N C E S

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THE VIDEOGRAPHER: We are on record. The time now is 1:19 p.m. Today's date is June 27th, 2019. This is volume one media unit of the video deposition of Grzegorz Buczkowski, Ph.D. taken in the matter of Foster versus Honda Motor Company, et al., filed in the United States District Court for the Western District of Washington at Seattle. Case number is 2:17-cv-01727-JCC. This deposition is being held at 810 Third Avenue, Suite No. 500 in Seattle, Washington, 98104.

I'm the videographer, Dan Bassett. Our court reporter is Yvonne Gillette. We're both with Seattle Deposition Reporters.

Counsel, please identify yourselves for the record, and then the witness may be sworn in.

MR. BREEN: Good afternoon. Thomas Breen for the plaintiffs.

MR. RUSSELL: And I'm David Russell. I represent the Honda defendants.

GRZEGORZ BUCZKOWSKI, having been duly sworn,
testified as follows:

MR. RUSSELL: And before we start, I just

1 want to preserve an objection to opinions that might
2 be expressed during this perpetuation testimony that
3 are part of what was marked earlier as Exhibit 6 as
4 being untimely disclosed opinions.

5 MR. BREEN: And as we stated earlier, none
6 of those opinions are new opinions. And I would be
7 happy to address that if it gets raised with the
8 Court.

9 MR. RUSSELL: We just disagree on whether or
10 not they're new.

11 DIRECT EXAMINATION

12 BY MR. BREEN:

13 Q Good afternoon.

14 A Good afternoon.

15 Q Could you please spell your name for the
16 record?

17 A First name is G-R-Z-E-G-O-R-Z. And last
18 name is B-U-C-Z-K-O-W-S-K-I.

19 Q And could you say your first name and last
20 name for the record?

21 A Grzegorz Buczkowski.

22 Q Okay. You're -- where are you originally
23 from?

24 A Originally from Poland.

25 Q Where do you live now?

1 A I live in West Lafayette, Indiana.

2 Q And what do you do for a living,

3 Dr. Buczkowski?

4 A I'm an associate professor at Purdue
5 University.

6 Q What is your background in getting to the
7 position of being an associate professor or at Purdue
8 University?

9 A So I attended North Carolina State
10 University where I received a bachelor's degree. That
11 was followed by a master's degree. And I also
12 received my Ph.D., my doctoral degree from North
13 Carolina State.

14 Q And what did you receive your Ph.D. in?

15 A My degree was in entomology.

16 Q Tell the jury what entomology is.

17 A Entomology is the study of insects. It can
18 also include the study of basically all kinds of
19 urban -- all kinds of pests, vertebrate and
20 nonvertebrate pests.

21 Q Okay. Your position at Purdue University,
22 is it a teaching or a research position?

23 A It's a majority research position.

24 Q Okay. And what do you research?

25 A My research is on urban pest management as

1 relates to controlling all sorts of pests in urban
2 environments. I specialize in social insects, which
3 includes ants and termites, as well as I study -- I'm
4 also a rodentologist. So I study the behavior, the
5 biology, and the control of rodents.

6 Q And that's what a rodentologist is?

7 A A rodentologist is a person who specializes
8 in studying rodent biology.

9 Q Do you consider yourself an expert in
10 rodents?

11 A Based on my education and my training and my
12 field experience, I consider myself an expert in
13 rodent biology, yes.

14 Q Okay. How did you become an expert in
15 rodentology?

16 A Through -- I became an expert in rodent
17 biology through a number of different means, including
18 training, formal training, so I've -- I was -- I have
19 been mentored by Dr. Bobby Corrigan, who is a
20 recognized expert in rodent biology. He's currently
21 working in New York City, which is well-known for high
22 rodent populations. And he continues to be my mentor.

23 I actually took a training course under
24 Dr. Bobby Corrigan in New York City. It was a field
25 based course, a training course where we actually went

1 out in the field and did rodent inspection. And we
2 learned a lot about biology of mice and rats and other
3 types of rodents.

4 I have been involved in testing, working
5 with companies to test and develop various tools for
6 controlling rodents, including bait, toxic baits for
7 example, traps of all sorts, baiting devices, and
8 other tools for preventing rodent damage.

9 Q Okay. Do you attend conferences or seminars
10 that deal with the topic of rodents?

11 A I do attend conferences and seminars at
12 least -- I would say at least once a year, but more --
13 typically, about two or three conferences a year that
14 are related to urban pest management, including
15 rodents, yes.

16 Q And how long have you been working and
17 studying in the field of rodentology?

18 A For about eight years now.

19 Q Some of your research work, I think you just
20 explained, deals with working for companies; is that
21 correct?

22 A That's correct, right.

23 Q Tell the jury what some of the companies ask
24 you to do as a rodentologist.

25 A So some of the companies will ask me to

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1 basically evaluate their products for efficacy, either
2 in the lab or in the field, to -- for example, if they
3 are developing a new bait for controlling rodents,
4 they will want to know if the bait is -- they will
5 want to know if the bait is, first of all, attractive
6 to rodents. They will want to know if the bait is
7 actually controlling rodents, if it's effective. So I
8 will do -- will then do either lab testing or field
9 testing to basically evaluate, assess the products for
10 efficacy.

11 Q Okay. And can you tell us what some of the
12 industries are that have asked you to do some research
13 on rodents?

14 A So, for example, various chemical companies,
15 again, that manufacturer baits for controlling
16 rodents. Other companies included companies that make
17 basically packaging for materials, either food or
18 other types of products, so plastic packages. They
19 wanted to know, for example, if rodents can penetrate
20 the packaging can chew through the packaging.

21 I've also worked for a company that was
22 developing a protective coating. It was actually a
23 paint formulation that could be used for protecting
24 objects from rodent damage. So you would apply this
25 paint on the surface of these different -- it could be

1 any kind of object. And I would expose these
2 materials to rodents and give them a choice, a feeding
3 choice to see if these protected from rodent damage.

4 Q What's your understanding as to why these
5 companies are trying to guard against rodents?

6 A Well, these companies are engaged in
7 developing tools for controlling rodents, and then
8 they provide to pest control companies. So there is
9 just a big need. We all know that rodents are very
10 common. They're big nuisance pests. So these
11 companies basically develop products based on the need
12 in the market. So there's a need for all kinds of --
13 again, all kinds of tools for controlling rodents.
14 And these companies, that's one of the products that
15 they offer.

16 Q Have you ever been asked to do some research
17 on rodents as they relate to automobiles?

18 A That I have not.

19 Q Okay. And if an automobile manufacturer,
20 say like Honda, asked you to do some research into a
21 rodent issue, would that be something you would do
22 able to do?

23 A That would certainly be possible, yes.

24 Q Okay. You said that rodents are a problem.
25 Tell us what you know about rodents and how much of a

1 problem they are.

2 A So rodents are -- actually they're the most
3 common mammal in the world, in terms of number of
4 species diversity, as well as numbers. So they're
5 very common. They can survive in all kinds of
6 environments. They're a nuisance pest. They transmit
7 disease, for example. They damage materials. They
8 damage food. They damage -- again, everything from
9 people's homes to people's property.

10 So they need to be -- and they have a high
11 reproductive rate as well. So they need to be
12 controlled. If they're not controlled, their numbers
13 just go out of control, and basically, they become a
14 really big, a problem.

15 Q Okay. What's some of the field work you're
16 involved in now conducting research with regard to
17 rodents?

18 A So at the moment, I have two trials going,
19 both field trials. There is a study I'm working on in
20 Chicago. Actually it's a field study with rats. And
21 we're looking at -- we're just comparing two different
22 attractants that the companies are developing to
23 actually attract rodents into trapping devices, to
24 make those trapping devices more attractive for
25 rodents and then to achieve better -- to have better

1 trapping success with these devices.

2 Q What kind of tools or technology do you use
3 to trap these rodents?

4 A We are -- we're developing different kinds
5 of tools. A lot of it is visual inspections,
6 basically tracking rodents. We have -- we even have
7 these special tracking pads that we use with chalk on
8 them. When the rodents walk over the tracking pads,
9 we can see these footprints on the tracking pads.

10 We also have -- we have a newer technology
11 that relies on actual sensors within the traps that
12 actually send a signal to your -- these traps are GPS,
13 so actually the traps, when they detect movement
14 inside the trap, the sensor will send a signal to your
15 cell phone, and you will get an alert that tells you
16 exactly when and where the rodent was detected.

17 This is -- this is where the field is really
18 going because, again, there's a huge need for the pest
19 control technicians to know -- instead of going out
20 there and actually inspecting every single trap, they
21 need to know -- they can be on a different job and
22 actually get an alert that the rodent was captured.
23 And then they would go out and inspect that particular
24 station. They don't have to inspect every single
25 station, only the ones that actually sent them a

1 signal that a rodent was captured in the station. So
2 this is basically just to save time on the
3 inspections. And it's the newest technology in rodent
4 control, is actually getting these -- these signals,
5 these confirmations from captures.

6 Q So like when a car signals that your tires
7 are low without you having to look at --

8 A Or when it's time to change the oil, you get
9 the -- you get the alerts on the dashboard. This is
10 very similar to that, yes.

11 MR. BREEN: Can we go off the record for a
12 moment?

13 THE VIDEOGRAPHER: Going off record. The
14 time now is 1:31 p.m.

15 (Pause in proceedings.)

16 THE VIDEOGRAPHER: Back on record. The time
17 now is 1:32 p.m.

18 Q Okay. Doctor, what did I ask you to do for
19 this matter?

20 A So I was asked to assess whether a certain
21 model Honda CR-Vs are susceptible to rodent nesting
22 behavior, especially the 2012 to 2014 models.

23 Q Okay. And before you tell me what you did,
24 can you tell us what the ordinary protocol and custom
25 is for experts in your field to make these -- this

1 kind of assessment?

2 A So the accepted protocol in my field is to
3 look for certain signs of rodent presence and to look
4 for -- for locations where rodents would prefer to
5 nest. And this includes areas that are dark, areas
6 that are warm, also places that provide shelter, that
7 protect -- provide safety for the rodents. I believe
8 I already mentioned places that are dark.

9 So what I did was I did an inspection on a
10 Honda CR-V.

11 Q Hold on. I'm going to ask you about that in
12 a second. I just want to finish up on the protocols
13 in your field if I could. I want to make sure I have
14 captured them all. You said that you're looking for
15 in the field to find an area that is suitable for
16 rodent nesting. You look for areas that are dark,
17 that are warm.

18 A Warm.

19 Q That provide safety to the rodent. Why --
20 why does a rodent want to go in an area that is dark?

21 A So a rodent -- rodents naturally prefer
22 places that are dark, concealed, because they have
23 evolved -- they live in burrows typically, below the
24 ground. This is where they feel safe.

25 Q Okay. And what's the significance of an

1 area that's warm?

2 A Areas that are warm -- again, rodents are
3 very small. They have small body size. They're
4 producing energy constantly. They're very susceptible
5 to hypothermia. Again, they're generating a lot of
6 energy. They need to consume a lot of food to keep --
7 to stay warm. So, again, they're looking for places
8 that they can preserve their body heat.

9 Q And why are they looking for an area that
10 provides them some safety?

11 A So regarding safety, they, like most
12 animals -- like all animals, rodents like -- they need
13 a place where they can be protected from predators,
14 such as, you know, other animals and other rodents.
15 Actually the biggest enemy of a rodent is another
16 rodent. There's a lot of competition between
17 individuals in a colony. Also they're protected from
18 the elements, from rain, from temperature extremes,
19 from either cold or heat.

20 Q What kind of material is a rodent looking to
21 gather to create a nest in these areas that are
22 suitable for nesting?

23 A So rodents can actually use a wide range of
24 nesting materials. What they prefer is materials that
25 are dry, because, again, dry materials provide

1 insulation. Comparison I would make here is, when we
2 go camping, we don't want to sleep in a wet sleeping
3 bag. We want a dry sleeping bag, because it's going
4 to provide insulation. This is the same principle.
5 Rodents, again, they need to maintain body heat, so
6 they're looking for dry material.

7 Q And looking for areas that are dark, warm,
8 provide safety, and are dry to assess the suitability
9 of an area for nesting of a rodent, is that something
10 that rodentologists like yourselves typically and
11 generally look for when trying to find whether there's
12 an area that would attract rodent nesting?

13 A Exactly. This is exactly the protocol that
14 we follow. We look for these signs that -- and for
15 these areas that meet all these requirements, yes.

16 Q Okay. Is there any literature, or are there
17 any guidelines that you can point us to that support
18 that this is an accepted assessment, criteria for
19 evaluating whether an area is attractive for rodents
20 to nest in?

21 A Yes. So there's -- there's a number of
22 published papers, peer-reviewed papers that are
23 available, publicly available online to anyone. They
24 all mention these types of factors. There is -- there
25 is a book that's published on rodent biology called

1 Rodent Control. It also has chapters on nesting
2 behavior.

3 Again, this was, again, part of that course,
4 that rodent training course I took. We looked -- we
5 actually did field inspections for rats and mice. And
6 this is exactly what we -- this is an accepted
7 protocol in the rodentology discipline to determine
8 rodent presence.

9 Q What was the name of that training course
10 you took?

11 A It was called the -- it was called the
12 Rodent Control Academy.

13 Q And that was the one in New York City?

14 A New York City, yes.

15 Q Okay. A lot of rodents in New York City?

16 A A lot.

17 Q Did you take this accepted protocol that
18 rodentologists use to assess the suitability of an
19 area for rodent nesting and apply it in your
20 assessment of the Honda CR-V model years 2012 to 2014?

21 A Yes. This is exactly what I did, yes.

22 Q Tell us how you did that.

23 A So I located a 2012 Honda CR-V in Lafayette,
24 Indiana. I went to a used car dealership. And I
25 asked for permission to examine the vehicle. So we --

1 we basically elevated the vehicle on jacks so we could
2 actually look underneath. We could see the plastic
3 and the metal paneling on the undercarriage. And we
4 removed some of the panels. So we basically examined
5 the whole -- along the whole exhaust system underneath
6 the car. We examined this whole area for -- for these
7 factors.

8 (Exhibit No. 50 marked for identification.)

9 Q Okay. I have handed you Exhibit No. 50. Do
10 you recognize that?

11 A Yes, I recognize. This is the vehicle that
12 I inspected.

13 Q Okay. I'm going to call them 50-1, 50-2 as
14 we go through so that they're clear, and I'll probably
15 mark them afterwards as such.

16 Let's look at 50-1. Tell us what 50-1 is.
17 And I have it up on the screen if that helps you to
18 look at, or whatever you prefer.

19 A Yes. So 50-1 is a -- again, that's a used
20 Honda CR-V, 2012 model that I inspected for this case.

21 Q Okay. And I've got 50-2 here. Looks like
22 you did this inspection in the wintertime.

23 A Right. This was back in January.

24 Q All right. I'm going to go to 50-4. And
25 tell us what is happening here.

1 A So here, we are basically lifting -- putting
2 the car on jacks so we can lift it up and look
3 underneath.

4 Q All right. Did you take these photographs?

5 A Yes, I did. Yes.

6 Q Okay. And tell us what 50-5 is a photograph
7 of.

8 A So this photograph is showing the
9 undercarriage on the underside of the car. We can see
10 the plastic, some of the plastic paneling that's
11 around the exhaust system. We can also see the metal
12 shield that's been removed so we can actually see
13 inside.

14 Q Okay. So you referenced a metal shield. I
15 want to go to 50-6. What is that?

16 A Here we can see the metal shield, as well as
17 some of the plastic paneling around it, again, around
18 the exhaust system.

19 Q Okay. Can I have you take with a pen on
20 50-6 and show me -- and indicate with a marker the
21 metal shield and the plastic part that you're
22 referring to so the jury can follow along?

23 A The metal shielding is the lighter colored
24 part. And everything darker around, the black part of
25 it is the plastic shielding.

1 Q Okay.

2 A And the two are connected.

3 Q Okay. So if I have got this right, you have
4 indicated this -- tell me again what this black part
5 is that my pen is on.

6 A The black part is the plastic shielding.
7 And connected to is it a metal shield or a paneling
8 that is removable for servicing the vehicle.

9 Q Okay. And that's what you had removed that
10 we saw in 50-3; is that right?

11 A Correct.

12 Q So that's with that metal shield removed?

13 A This is with the metal shield removed.

14 Q All right. Okay. Can you tell us what you
15 observed in 50-7?

16 A So in 50-7, we can see -- this is basically
17 looking at the same undercarriage from a different
18 angle, kind of looking towards the front of the car.
19 We see, again, the metal shielding. It's in place.
20 We can also see part of the exhaust system. And
21 basically, we can also -- we can see the distance
22 between the shielding and the exhaust system.

23 Q All right. Okay. I have got 50-10 here.
24 And this is another photograph you took of the Honda
25 CR-V that you examined, correct?

1 A Yes.

2 Q And that's back with the shielding back on,
3 right?

4 A That's with the shielding back on, yes.

5 Q Right here?

6 A Yes.

7 Q All right. And in terms of your assessment
8 of a suitable location for a rodent to be attracted to
9 build a nest, what can you tell us about this shield
10 in the area above the shield?

11 A When I examined this vehicle, I was -- I was
12 really surprised how ideal this space was for rodent
13 nesting. It provides -- it's just -- for a rodent
14 looking for a place to nest, this is absolutely an
15 ideal place for, again, because it provides all these
16 factors that we discussed.

17 Q And the factors that you're talking about
18 were the factors that you testified to already. This
19 area is dark, warm, provides safety?

20 A Safe.

21 Q And it's dry?

22 A It's dry. Exactly, yes.

23 Q We have got 50-12, and we're almost done
24 with some of your photographs here. What can you tell
25 us about this as it relates to your assessment of

1 rodent nesting area?

2 A So in this photo we can see, again, the
3 space that is available to rodents for nesting. We
4 see the -- again, the metal platform. The metal
5 shield is in place. I think that's significant for
6 two reasons. One is that shield provides a perfect
7 platform for nesting. It's a place where rodents can
8 actually put a nest. If the shield wasn't there, the
9 rodent wouldn't be able to put a nest there.

10 But because the shield is in place -- again,
11 it's flat. It's sturdy. It provides -- again, it's
12 an ideal platform for building the nest. That shield
13 is also significant because, when the car is in
14 motion, and there is air moving over -- underneath the
15 car, the shield actually protects any -- any nest
16 that's going to be built in there. It actually
17 protects the nest from being blown out or being --
18 just falling out of the vehicle. So, again, when the
19 vehicle is moving, that shield is going to keep that
20 nest in place for the rodent to come back to.

21 Q Okay. So let's -- so let's go over that.
22 When the car is started or in motion, typically what
23 happens to the rodent if the rodent is, let's say, in
24 its nest?

25 A So if the rodent was actually present on the

1 vehicle when the car is started, that would probably
2 startle the rodent. The rodent would want to leave.
3 They would be -- it wouldn't -- it would no longer
4 feel safe, because when the car -- there is movement.
5 There is noise. There is potentially heat. All these
6 factors would drive the rodent away. So the rodent
7 will probably -- if it has enough time, it would try
8 to leave, jump out, and it would -- it would then go
9 to its -- to the natural environment. And when the
10 car returns, then the rodent could return as well to
11 the same, to the same spot.

12 Q Okay. Now, even though there is a shield
13 here, if the nest is sitting above that shield, is the
14 rodent able to get back to its nest, let's say, when
15 the car returns?

16 A The rodent would be quite easily able to --
17 to return to the nest to, again, use any of the
18 openings on the underside to gain access into the --
19 into the space. And what rodents typically do, they
20 use urine marks. They will -- they -- with -- urine
21 contains pheromones, and they will mark their nest
22 with their scents, and they recognize it as their --
23 part of their territory and nesting space. So a
24 rodent can actually recognize, this is -- this is my
25 home.

1 Q And not to go build a nest from scratch
2 again?

3 A Right, right.

4 Q Okay. All right. And in assessing these
5 Honda CR-Vs, 2012 to 2014, did you reach any expert
6 opinions about Honda CR-Vs as they relate to rodents
7 and rodent activity?

8 A Yes, I did.

9 Q Okay. What was your opinion as to Honda
10 CR-Vs, models 2012 to 2014, as they relate to rodents?

11 A So my opinion, again, based on my education
12 and my training and my experience is that 2012 to 2014
13 Honda CR-V models provide an ideal place for rodents
14 to nest.

15 Q Okay. And what is that -- in addition to
16 your training and experience, what can you point us to
17 to explain how you reached that conclusion and that
18 opinion?

19 A I -- I'm sorry. Can you repeat the
20 question, because --

21 Q Sure. What is it that you can point to that
22 makes that location above the shield in a Honda CR-V,
23 2012 to 2014, an ideal place for rodents to build
24 nests?

25 A So the space there provides -- it meets all

1 the requirements that rodents are looking for. Again,
2 the factors that we discussed, all of them are
3 present. All of them -- they compound each other,
4 because if they're all present individually, maybe a
5 space wouldn't be so attractive. But because all of
6 them are present in this one, in this one specific
7 place, above that metal shield, that actually
8 compounds, and it makes the place particularly
9 attractive to rodents.

10 Q Okay. Before you looked for yourself at
11 this Honda CR-V, what was your awareness about rodents
12 building nests in Honda CR-Vs, model years 2012 to
13 2014?

14 A So at that time, I didn't know that this was
15 an issue. Although, again, based on my -- my field
16 experience, I did know that rodents like to build
17 nests in all kinds of equipment.

18 Q Let me clarify. I'm not talking -- let me
19 backpedal here. At the time that you were looking for
20 whether this area in a Honda CR-V is attractive to
21 rodents, had you read any materials that Honda had
22 prepared about rodent activity in this area of Honda
23 CR-Vs?

24 A I have -- I have read reports from Honda
25 that outline similar issues in other vehicles.

1 Q And you read those -- you read those reports
2 before or after you looked at this Honda CR-V in
3 Indiana?

4 A That was before I looked at the Honda CR-V
5 in Indiana.

6 Q Okay. Separate from whenever -- when you
7 read those reports, whether it was before or after,
8 were you aware when you were looking at the Honda CR-V
9 that you were looking at an area that -- that it had
10 been identified to you as an area that would be a
11 potential area for rodent activity?

12 A If I could get some clarification again,
13 please, on this --

14 Q Yeah. Nobody -- when you went to look at
15 this Honda CR-V, 2012 to 2014, nobody asked you to
16 look at the trunk for rodent activity, right?

17 A Correct, right.

18 Q They asked you to look for rodent activity
19 in the spot above the shield; isn't that right?

20 A Exactly, yes.

21 Q All right. And was that because they had
22 identified there had been rodent activity, and it had
23 been identified to you that there had been rodent
24 activity in other Honda CR-Vs of the same years in the
25 same spot?

1 A That's exactly correct, yes.

2 Q And you knew that when you were reviewing
3 the Honda CR-V?

4 A That's correct. Yes, yes.

5 Q All right. And having now seen -- you
6 mentioned having read some reports that identify
7 rodent activity in Honda CR-Vs, 2012 to 2014. Who
8 wrote these reports?

9 A These reports were written by Honda
10 engineers who inspected vehicles, Honda CR-Vs that
11 were involved in similar incidents.

12 Q Similar incidents meaning fire incidents?

13 A Yes, yes.

14 Q And it was Honda that wrote that above the
15 metal shield area there, there were evidence of rodent
16 activity?

17 MR. RUSSELL: Objection. Leading.

18 Q Who was it that wrote that there was
19 evidence of rodent activity in the Honda CR-Vs that
20 resulted in fires?

21 A This was written by Honda employees,
22 engineers who inspected the vehicles post fire.

23 Q Okay. And what impact does the fact that
24 Honda has written that in other CR-Vs, 2012 to 2014,
25 where there were fires that they have identified

1 rodent debris and rodent activity, what impact does
2 that have in your assessment as to the Honda CR-V
3 being an ideal place for a rodent to build a nest?

4 A So this -- this provides support. This
5 provides evidence that this is a kind of ongoing,
6 continuing, reoccurring issue, and that indeed the
7 vehicle that I inspected and all the conditions that I
8 did see, this is -- again, it just verifies my
9 theories and opinions.

10 Q Okay. And so separate from what the rodents
11 have decided as their spot where they want to nest in
12 a Honda CR-V, separate from what the rodents decide,
13 you as a rodentologist, have you decided that the
14 spot -- where the spot is where a rodent would want to
15 nest in a Honda CR-V?

16 A It is -- it is my opinion that that spot,
17 that particular spot above the metal shield is --
18 again, it's an ideal spot for rodent nest.

19 Q And is that also the spot where Honda has
20 identified rodent debris in their documents that you
21 reviewed?

22 MR. RUSSELL: Object to form.

23 A Yes. This is the exact same spot.

24 Q Okay. So where you think rodents will build
25 nests and where the rodents are actually building

1 nests, are those in the same location?

2 A They exactly match up.

3 Q What is some of the debris that you
4 identified in your expert report that you would expect
5 to find or -- in -- in this location on a Honda CR-V?

6 A So this could be any type of organic
7 material that the rodent would find in the
8 environment, anything from dry grass to leaves to
9 needles, pine needles or other conifer needles,
10 because those are dry.

11 Q In your report, did you list every single
12 material that a rodent would bring into a Honda CR-V,
13 or did you list examples?

14 A I just listed examples, because the range of
15 materials, it's basically too long to list.

16 Q Okay. At the time you wrote your report, do
17 you know whether there had been an inspection of the
18 Honda CR-V to see if there was any debris that would
19 be consistent with rodent activity?

20 A On -- sorry. On which particular Honda?
21 The one I inspected?

22 Q I'm sorry. You're right. I need to
23 backpedal. What I meant to say, on the Honda CR-V in
24 this case, Mrs. Foster's CR-V, do you know one way or
25 the other whether an inspection to check for debris

1 related to rodents was conducted before you wrote your
2 report or after you wrote your report?

3 A It was done after.

4 Q All right. And did you learn the results of
5 the inspection of that Honda CR-V after your report
6 was written?

7 A It was after my report was written, yes.

8 Q Okay. And what were the -- what did you --
9 what did you learn from that inspection?

10 A So I learned that post fire, again, there
11 were some -- in the burn pile, there was some needle,
12 conifer needles found at the scene. Yeah.

13 Q Okay. What is the -- and is that -- is that
14 finding of conifer needles consistent with your expert
15 opinion as to the types of materials a rodent would
16 bring into this ideal location in a Honda CR-V?

17 A Again, it matches exactly what a rodent
18 would prefer. So when rodents are out there, again,
19 they're making a choice as to what type of nesting
20 material they are collecting. So again, conifer
21 needles, we know it's -- I believe it's significant to
22 this case. Conifer needles contain resins. So resins
23 are naturally water repellant, so they're going to be
24 dry.

25 And rodents are looking for the driest

1 possible -- the driest material that it can find. So
2 as opposed to, let's say, dry grass or leaves, these
3 materials don't contain any -- any resins, so they
4 would have a tendency to get wet in kind of a wetter
5 climate. Whereas conifer needles, again, because of
6 their high resin content, they are likely to repel
7 water, stay dry, and be -- for that reason, be more
8 attractive to rodents. And containing resins also
9 makes them more flammable as well as we know.

10 Q Okay. Are you aware one way or the other
11 whether there was a video camera in the undercarriage
12 of Mrs. Foster's CR-V?

13 A I'm not aware of any cameras being there.

14 Q Okay. Then are you able to say when exactly
15 the rodent or a rodent put these needles in
16 Mrs. Foster's Honda CR-V?

17 MR. RUSSELL: Objection. Lacks foundation.

18 A We don't know exactly when it happened, but
19 what we do know is it happened -- it must have
20 happened prior to the fire, because a rodent wouldn't
21 be building a nest while -- either when the car is in
22 motion, after she left the parking lot and was driving
23 uphill. A rodent wouldn't be building a nest in a car
24 that's actively on fire. So it must have happened
25 some point before the fire. Although we don't know

1 exactly at which time point.

2 Q How significant is the fact that there were
3 these needles found in Mrs. Foster's car as it relates
4 to your assessment of the Honda CR-V and rodent
5 activity?

6 A I believe the needles are significant for a
7 couple of reasons. Again, it was what rodents prefer
8 to collect for nesting. They are looking for
9 materials that are dry. Again, pine needles, they're
10 one of the most common materials that are found in the
11 area, so it's something that is basically available to
12 the rodents. Other materials might not be available.
13 So they will be -- again, if they're lacking choices,
14 they will take any material that's basically in the
15 area.

16 And also in terms of actual size, the
17 rodents, especially a small rodent like a mouse, they
18 will prefer to carry and collect materials that they
19 can easily pick up, put in their mouth and carry them
20 to where they're building a nest. So they wouldn't be
21 collecting large objects, such as, you know, tree
22 twigs or any larger pieces of vegetation. They would
23 be going after small, relatively small items that they
24 can actually pick up, that are light enough that they
25 can pick up and carry into the vehicle, yes.

1 Q Okay. You -- when did you arrive to Seattle
2 for this deposition?

3 A I arrived yesterday morning.

4 Q Okay. And did you take advantage of being
5 in the area with regards to your work on this case?

6 A Yes. So I actually wanted to have --
7 actually see the site. So yesterday, we made a visit
8 to -- we went up to look at the -- we looked at the
9 vehicle. It's currently in storage. We also looked
10 at the incident site where the vehicle was parked and
11 where the fire happened.

12 Q Okay.

13 (Exhibit No. 51 marked for identification.)

14 Q I've handed you Exhibit No. 51, Doctor. Can
15 you -- I have it here on the screen to publish once
16 it's admitted for the jury to see. Can you identify
17 for me what that is a photograph of?

18 A This is showing the country club,
19 specifically the parking lot in front of the clubhouse
20 where Mrs. Foster had dinner.

21 Q Okay. And can you tell us your assessment
22 of the area as it relates to rodents?

23 A Yes. So in this particular spot, we walked
24 around -- walked around the parking lot, looked at
25 various -- just a number of different places. We

1 actually -- in particular, we inspected the wall, the
2 retaining wall that's visible on the left side where
3 the cars are parked.

4 Q Is this the retaining wall you're talking
5 about?

6 A Yes. In that area, yes. So this is
7 constructed of large boulders. And it really struck
8 me when I -- just as soon as I saw it, I was like,
9 this is prime rodent nesting location, because, again,
10 it provides -- these boulders, again, create -- they
11 meet all these factors, all these conditions that
12 rodents are looking for. There are -- there are
13 crevices in there that rodents could get into. These
14 places are dark. Rocks, we know they absorb heat
15 during the day. They hold heat at night. So they're
16 like basically incubators for the rodents. Again,
17 it's ideal nesting conditions for rodents.

18 Q Okay. And we -- fair to say, we don't know
19 if the rodent got into Mrs. Foster's car and built a
20 nest on the night of the incident, or a week before,
21 or a month before? Isn't that fair to say?

22 A That's correct.

23 Q All right. And so did you -- did you, you
24 know, ask for permission to rip apart that rock wall
25 to see -- to unearth the rodents?

1 A Did we ask for permission to remove --

2 Q Yeah, to go in there and take it apart.

3 A We did not take the wall apart, did not ask
4 for permission.

5 Q And also, because we don't know if the
6 rodent got into the Honda CR-V that night
7 Mrs. Foster's car -- Honda CR-V became engulfed in
8 flames or earlier, did you interview the folks at the
9 country club to talk about how they manage rodents?

10 A We did not interview anyone at the site.
11 But also, it's just part of what I do, part of what
12 I -- pretty much when I do a rodent inspection, I look
13 for bait stations possibly, any signs of rodent
14 control. I didn't see any devices, any bait stations
15 that would be -- that would indicate some kind of an
16 ongoing rodent control program.

17 Q You didn't ask anyone if anyone there has
18 like a Chevy Chase job managing the rodents on the
19 golf course?

20 A We don't know.

21 MR. RUSSELL: I think it was Bill Murray.

22 MR. BREEN: Who did I say?

23 MR. RUSSELL: Chevy chase.

24 Q Oh, Bill Murray. You didn't ask if Bill
25 Murray was out there, did you?

1 MR. RUSSELL: Got to get your Saturday Night
2 Live characters straight.

3 Q You didn't see a Bill Murray character out
4 there bombing rodents, did you?

5 A No.

6 Q You've identified these -- well, let me ask
7 you, do you have an opinion one way or the other as to
8 whether Mrs. Foster's Honda had rodent activity in it
9 before it caught on fire?

10 A I have -- based on what I've seen, I have
11 formed a strong opinion that indeed there was a rodent
12 nest present in the vehicle before, prior to the fire,
13 yes.

14 Q Okay. Let me make sure I capture it. You
15 said it was a strong opinion of a rodent nest prior to
16 the fire. Can you tell us the factors that go into
17 you forming this strong opinion?

18 A Yes, so --

19 Q Let's break them down one by one, so we
20 don't -- I can -- I won't be able to write them down
21 so fast if you say them all at once.

22 A So, again, the factors I used in forming my
23 opinion, it's based -- first of all, my -- general
24 rodent nesting behavior, what I know about a rodent
25 nesting preferences, what they typically use for

1 nesting materials, where they place the nesting
2 materials.

3 Q Okay. One moment. Okay. General rodent
4 nesting behavior. What else goes into your concluding
5 that there was rodent nesting prior to the fire?

6 A Second factor would be the vehicle that
7 actually I examined, a 2012 Honda CR-V as an example
8 of vehicle that was involved in this incident.

9 Q Okay. What else?

10 A The last point I would make is basically
11 connecting number one to number two, what we know
12 about rodent nesting behavior and their preferences
13 with this specific vehicle, and also the factors that
14 we discussed, the looking for places that are dry,
15 dark, warm, and protected.

16 Q Right.

17 A And I observed all of these factors on this
18 vehicle. And, again, based on published information
19 and my own experience with rodent biology and their
20 nesting preferences, I make a connection between the
21 first point and the second point. And to me, again,
22 the -- the undercarriage on this type of vehicle,
23 especially that metal shield provides -- or the area
24 above the metal shield provides an ideal rodent
25 nesting habitat.

1 Q Okay. Earlier, you talked about how you
2 think rodents would ideally want to be in the Honda
3 CR-V and where Honda reported rodents being in the
4 Honda CR-Vs had matched up. Do you consider when
5 forming your opinion?

6 A Yes. So, again, this is -- the reports
7 indicated that rodents would nest in this particular
8 spot. Again, they wouldn't be nesting -- they never
9 chose any other locations within the vehicle, or for
10 example, the trunk or the paneling on the doors to
11 nest. And they chose a spot, again, that is close to
12 the exhaust system, because it provides heat. They
13 chose a spot that is -- that, again, meets all these
14 conditions as an optimal nesting site.

15 Q Okay. And the last thing you spoke about,
16 you said after you provided your initial report, you
17 learned of needles found in the Honda CR-V of
18 Mrs. Foster. Did that factor into your opinion that
19 there was rodent nest prior to the fire?

20 A Exactly. It did, because, again, finding
21 needles is -- needles, again, they are dry material.
22 Again, it's something that rodents would go after when
23 they're choosing nesting material. It's what's
24 available. Needles are -- probably out of all the
25 materials out there, they're the most likely to remain

1 dry in the wet conditions.

2 Q Okay. Let me ask you this: This part about
3 the needles, you, as you sit here today, do you know
4 if these needles might have come into this Honda CR-V
5 after the fire from wind or firefighters or natural
6 progression or migration of needles?

7 A I see this as highly unlikely in this case.
8 I believe the needles were brought in by a rodent
9 prior to the fire. Again, when I looked at the site,
10 the site was actually -- it was -- it was ivy. There
11 was green vegetation, very lush. I didn't see much
12 dry material down there. I touched the ground. The
13 ground was saturated. I believe the needles were
14 collected by a rodent and brought into the vehicle
15 prior to the fire.

16 Q Okay. Now, when you looked at the ground
17 that you said was saturated and had ivy, when did you
18 look at this?

19 A I looked at it yesterday.

20 Q Had it rained yesterday?

21 A It rained right before we did the
22 inspection.

23 Q Okay. And was the material that you saw
24 with ivy and the wet ground -- can you compare what
25 that material is like compared to the type of material

1 that a rodent would bring into a Honda CR-V for a
2 nest?

3 A Yes. So the -- the material that's
4 available is available to a rodent at the actual --
5 where the fire occurred. Again, it was fresh
6 vegetation. There was live plants, ivy. There was --
7 first of all, too big for a rodent to carry. A rodent
8 wouldn't -- a rodent would first have to clip a leaf
9 off and actually take it. It wasn't readily available
10 to the rodents, whereas pine or conifer needles,
11 they're already detached. They're already on the
12 ground, they're dry.

13 Q If the ground -- if it rains, and a rodent
14 needs to find material to build a nest, how do they
15 find -- and where do they find material that gives
16 them that dry sleeping bag effect that you described
17 earlier?

18 A So in case it's raining outside and the
19 rodents need to find dry material, they can go below
20 the ground. They can go deeper into the ground to
21 find -- in the subsurface areas, they can find dry
22 material. They can go into the tree holes or existing
23 cavities in the landscape to look for drier material.

24 Q Okay. Tell the jury, you know, what -- when
25 rodents are active. What time of day?

1 A So rodents are active at night. Again, this
2 is part of their natural behavior. They're nocturnal.
3 This is mostly to avoid predators. So they -- when
4 most of their predators are active during the day, the
5 rodents are in their burrows, and they do come out at
6 night to feed and basically go about their daily life.

7 Q Does the temperature or the time of year
8 have an impact on rodent behavior and where and how
9 rodents find shelter?

10 A It does. It absolutely does, because
11 rodents, like some mammals, they can't hibernate, so
12 they're active year round. So when it's getting
13 cooler at end of the year, the fall or winter, the
14 rodents are going to be -- they still need to find
15 food and go outside and, again, do all their daily
16 activities. So at that time, they will be seeking
17 shelter, again, from rain, cold. And, again, they
18 will be looking for drier spots places that provide
19 warmth.

20 Q Did you consider the time of the year and
21 whether it was rainy or cold or these sorts of things
22 at the time Mrs. Foster's Honda caught on fire?

23 A Did.

24 Q Okay. And what -- did they impact in any
25 way your opinion that rodent nests were in her car

1 prior to the fire?

2 A Yes. So the incident occurred in November.

3 Q Okay.

4 A At nighttime.

5 Q Okay.

6 A During a time when it was actually raining.

7 So, again, all these factors coming together, time of
8 the year, time of the day, and the weather conditions
9 all creating perfect -- again, these are all factors
10 that would stimulate that rodent to seek shelter, go
11 to a dry, warm place. So, again, this is -- all these
12 factors, again, coming together in a perfect scenario
13 to attract a rodent to the vehicle.

14 Q Right. So a rodent needs to find a dry,
15 warm space in November, December with more urgency
16 than maybe they do in July or August; is that fair to
17 say?

18 A Absolutely, yes, yes.

19 Q You are not an expert in what causes fires,
20 are you?

21 A That's correct, I'm not.

22 Q And you're not an expert in automobiles,
23 right?

24 A I'm not.

25 Q Okay. You don't design Honda CR-Vs and try

1 to make them safe and functional, right?

2 A That's correct.

3 Q All right. But the area that you are an
4 expert in, in rodentology, have you -- all of your
5 opinions that you have expressed today been expressed
6 to a degree of scientific certainty on a more probable
7 than not basis?

8 A Absolutely. Like I said before, I strongly
9 believe -- this is my professional opinion that what I
10 learned in this case, what I observed is that a rodent
11 nest was present in the vehicle prior to the fire.
12 And most likely, the material that was brought in by
13 the rodent was the kind of -- the source, kind of the
14 kindling that drove that fire.

15 Q You have --

16 MR. RUSSELL: Move to strike as
17 nonresponsive. Go ahead.

18 Q You weren't asked to assess whether the
19 rodent material found in Mrs. Foster's car contributed
20 to the fire, were you?

21 A I was not asked to do that, right.

22 Q Okay. Are you able to tell us whether the
23 material that rodents brought into Mrs. Foster's car
24 would be drier than any materials of plants or trees
25 that are out in the open in the area where the fire

1 happened?

2 MR. RUSSELL: Objection. Outside his area
3 of expertise.

4 Q Let me address that first. Is part of your
5 expertise in being a rodentologist searching for where
6 rodents find dry material?

7 A Right.

8 Q Okay.

9 A Yes.

10 Q And in your job as a rodentologist, you said
11 you assessed the area where Mrs. Foster's car came to
12 rest in a fire, correct?

13 A That's correct.

14 Q All right. And the material that is above
15 ground in the area where Mrs. Foster's car came to
16 rest, is that the type of material that is of the --
17 of the dryness quality that a rodent would take into a
18 car to create a nest?

19 A Absolutely not. That material was the wrong
20 type, the wrong dryness level. It just wasn't what
21 rodents would go after.

22 Q Okay. Doctor, have you ever provided
23 testimony in a legal matter in any case?

24 A I have not.

25 MR. BREEN: Okay. No further questions.

1 Thank you for your time, Doctor.

2 MR. RUSSELL: Can we switch sides, go off
3 the record and --

4 THE VIDEOGRAPHER: Going off record. The
5 time now is 2:20 p.m.

6 (Recess taken.)

7 THE VIDEOGRAPHER: Back on record. The time
8 now is 2:36 p.m.

9 EXAMINATION

10 BY MR. RUSSELL:

11 Q Hello, Doctor. My name is David Russell. I
12 didn't introduce myself earlier, I have a few
13 questions for you. First I want to talk about the
14 protocol that you followed when inspecting that CR-V
15 back in Indiana. Do you remember that protocol?

16 A Yes, so --

17 Q Hang on. I'll ask you a question. And what
18 you were looking for was to determine whether the area
19 on the underside of the Honda was dark, warm, provided
20 safety, and was dry. Did I get that right?

21 A That's correct, yes.

22 Q Okay. You didn't do an analysis of any
23 vehicle other than a Honda CR-V, did you?

24 A No.

25 Q Okay. So as you sit here today, can you --

1 you can't express an opinion as to whether the
2 underside of a Ford Explorer provides an area that's
3 dark, warm, provides safety, and is dry, correct?

4 A What I can say is, a number of different
5 vehicles will provide some of these conditions.

6 Q Right. Including vehicles made by Ford
7 Motor Company?

8 A Potentially.

9 Q General Motors?

10 A Yes.

11 Q Toyota? Yes?

12 A Yes.

13 Q Subaru?

14 A Yes.

15 Q And in fact, you -- the rodent nesting that
16 you observed in vehicles, you observed it in a
17 forklift on a pig farm; is that right?

18 A That's correct.

19 Q And other pieces of equipment where rodents
20 had built nests?

21 A Yes.

22 Q And they found areas that were dark, warm,
23 provided safety, and dry on those pieces of equipment,
24 correct?

25 A I think some of the factors may have been

1 missing. For example, the forklift wouldn't really
2 be -- wouldn't necessarily provide a place that's
3 warm, like a car. Dark, yes. Safe, yes. Dry,
4 potentially, but maybe not as warm as a recently
5 driven car under equipment that is not typically in
6 use. Like I mentioned, the rodents were building
7 nests inside of like balances, large industrial scale
8 balances. So, again, equipment that's not typically
9 moved or that's not driven like a car. So maybe not
10 all four factors are actually present.

11 Q So what -- what you observed from that is
12 you don't necessarily have to have all four factors
13 present in order to find rodent nesting, correct?

14 A What I believe -- it's, again, my opinion
15 that when the more factors are present, they compound
16 each other. For example, if a place was only dark,
17 but it was very wet or very cold, is a rodent really
18 going to nest in there? Well, it would have to be a
19 very desperate rodent. Typically not. I mean, again,
20 they're looking for all these factors to be present in
21 one place when having a choice, when making decisions
22 where to nest. So, again, they're evaluating a site.
23 And is it dark? Is it warm? Is it safe? Is it dry?

24 The more factors you have, the more likely
25 rodent is to nest in there. And the additional

1 factors -- again, the presence of the metal shield as
2 a platform. Because that's another factor that is,
3 again, that's -- that creates -- it creates a place
4 for the rodent to actually physically put the nest.
5 And it prevents the nest from being -- from falling
6 out. Yeah.

7 Q It's a flat piece of metal, right?

8 A It's a flat, yes.

9 Q That's the -- that's why you want to talk
10 about the piece of metal is because it's flat?

11 A Because it's flat, because it's -- it's --
12 the very close proximity to warmth. It's about an
13 inch away from the exhaust system. So, again, it's --
14 it -- again, it's -- in my opinion, it's all these
15 factors coming together to create a perfect nesting
16 location.

17 Q You said that the rock wall next to where
18 Mrs. Foster parked was also an ideal location for
19 rodent nesting, correct?

20 A It appeared to me to be -- it would be. I
21 believe it would be highly attractive to rodents as
22 well.

23 Q And wouldn't the rodent -- wouldn't the rock
24 wall be more attractive than Ms. Foster's vehicle,
25 because it doesn't move?

1 A Not necessarily, actually, for two reasons
2 at least I would say. One is a recently driven car is
3 going to be -- so these rocks are going to be -- at
4 night time, when she was there, the rocks are going to
5 be cooling off. They're giving off heat. Rocks are
6 cooling off. The car is -- again, the engine block is
7 a source of heat. It's -- it's potentially more --
8 it's warmer than the rocks, so it could be -- for that
9 reason, could be more attractive.

10 Another reason is that rodents have this
11 behavior. They're neophilic. Again, neo means new,
12 and philic means to like something, to love something.
13 So they have this tendency to when they see a new
14 object placed within their territory, they like to
15 inspect it. They like to know -- again, for safety,
16 they like to know what it is. They like to inspect it
17 and determine, is it a source of potentially food, or
18 is it dangerous? So for that reason, they would be
19 attracted as well.

20 Q When you were at the country club yesterday,
21 you didn't see any direct evidence of rodent activity,
22 did you?

23 A We didn't -- I did not see any direct
24 evidence of rodent activity except for, again,
25 conducive conditions that would be -- that would be

1 attractive to rodents.

2 Q And my question was about direct evidence.
3 You didn't see any direct evidence of rodent activity
4 in the country club parking lot, correct?

5 A Right. I think that would require a night
6 time visit, inspection, when the rodents are active.
7 During the day, we did not observe any live rodents or
8 signs of rodents.

9 Q You didn't observe any rodent droppings or
10 rodent nesting or anything other than a habitat that
11 you believe rodents might like, correct?

12 A Again, that was -- when I saw that wall, to
13 me, that was -- it really struck me, it's an ideal
14 place for a rodent to be.

15 Q Okay. Did you -- in that rock wall, did you
16 see any rodent droppings?

17 A No droppings, but it would be difficult to
18 detect without actually collecting material and
19 looking under a microscope to really determine what --
20 there was a lot of debris, that -- small rocks, and
21 you can't really determine that.

22 Q Did you see anything when you were there
23 yesterday that was consistent with rodent droppings in
24 that rock wall?

25 A So, again, no direct rodent evidence, but I

1 did see -- for example, the site had lots of potential
2 food sources for the rodents, for example, that could
3 produce droppings, but no droppings.

4 Q Okay. And when you say food sources, you
5 mean pine cones or fir cones, right?

6 A Just cones in general. Seeds from the
7 grasses or -- any of the landscape plants that are
8 present in the area that are producing seeds or roots,
9 basically vegetation that can be attractive, that can
10 be a food source for rodents.

11 Q Okay. What you saw is you saw some conifer
12 cones, and you saw some grass, right okay?

13 A Mainly, yes, as well as some other types of
14 plants.

15 Q So anywhere where you see conifer cones and
16 grass, you think that's a rodent food source, right?

17 A Potentially, unless -- I mean, again,
18 rodents are -- they -- like they do choose nesting
19 sites. And in the same way, they choose the places
20 where they feed and what they feed on. So depending
21 on what's available in the landscape, they will be
22 making decisions. They will be selecting their diet
23 based on what's their feeding preferences, as well as
24 what's actually available in the area.

25 Q Okay. So let's go back to direct evidence

1 of rodents in that area. You didn't see -- when you
2 were there yesterday, you didn't see any direct
3 evidence of rodent nesting, correct?

4 A What I did see is --

5 Q I'm sorry. It's a yes or no question. Did
6 you see any direct evidence of rodent nesting when you
7 were there yesterday?

8 A No.

9 Q Okay. Did you -- you didn't see any
10 evidence of the country club putting out rodent bait
11 traps, correct?

12 A I didn't. I took a scan around the
13 building, the main building there, as well as the
14 parking lot. I didn't see any devices that would
15 indicate some kind of rodent control going on, yes.

16 Q And as you sit here today, you don't know of
17 anyone who's ever parked in that parking lot that we
18 see in Exhibit 51 who's had a problem with a rodent
19 building a nest in their car, correct?

20 A That's correct.

21 Q Okay. Let's talk now about Mrs. Foster's
22 vehicle specifically. The first time you saw
23 Mrs. Foster's vehicle was yesterday, correct?

24 A Well, not entirely, because I did see the
25 photos before.

1 Q Yeah.

2 A So the actual -- yes. So yesterday, I saw
3 the vehicle in storage, but I have seen the, again,
4 post fire vehicle in photos.

5 Q And when you were at the scene yesterday
6 where the fire occurred, you said there was some ivy
7 in that area, correct?

8 A Right.

9 Q Did you look underneath the ivy?

10 A Yes, I did. I touched the ground. I kind
11 of pulled the ivy kind of apart just to kind of have a
12 better look, to see what's on the ground. I touched
13 the ground. It was raining yesterday. The ground was
14 saturated. It was -- it was wet, yes.

15 Q When you looked under the ivy, did you see
16 conifer needles?

17 A Very few. It was mainly the green -- again,
18 it was -- it was all covered up by green vegetation.

19 Q Well, Doctor, I have been out there, and I
20 know there's ivy. I know there's green vegetation.
21 I'm talking about underneath the green vegetation.
22 Did you look underneath the green vegetation?

23 A I did.

24 Q And when you looked underneath the green
25 vegetation, did you see conifer needles?

1 A There was some present, yes.

2 Q Okay. Now, do I have it right that with
3 respect to Mrs. Foster's vehicle only, the only
4 evidence that you're relying upon that there was a
5 rodent nest in Mrs. Foster's vehicle, not some other
6 CR-V, but Mrs. Foster's vehicle, is that during an
7 inspection, some conifer needles were found in the
8 undercarriage of Mrs. Foster's vehicle?

9 A Yes. There were some needles found after
10 the -- in the burn material after the fire.

11 Q And if in fact those needles were part of a
12 rodent nest that was there before the fire started,
13 would you expect to find those needles underneath burn
14 debris, yes?

15 A Well, depending how -- again, so I'm not a
16 fire expert. I don't know how the car -- how it
17 burned. You know, the needles -- the nest would have
18 been on top of that platform, that shield, the metal
19 shield or any of the plastic shielding. And possibly
20 the plastic shielding melted during the fire and fell
21 on the ground. I don't know what happened. I don't
22 know the fire -- exactly how it happened.

23 Q Let me take it step by step. You weren't
24 there for the inspection when the needles were found,
25 correct?

1 A I was not.

2 Q And you don't know where those needles were
3 found, whether they were underneath fire debris or in
4 the middle of fire debris, or on top of fire debris,
5 do you?

6 A That exactly I don't know, right.

7 Q Okay. And you're not a fire expert, so you
8 can't tell us whether needles would have burned, if in
9 fact they were present before the fire started, or can
10 you?

11 A If the needles would have burned during the
12 fire?

13 Q Yeah.

14 A You mean, or -- I think some of the -- part
15 of the nest could have burned, especially if it was
16 the source of the -- the material that initially, you
17 know, kind of fueled the fire.

18 Q And if in fact those needles were evidence
19 of a rodent nest that is the cause of Ms. Foster's
20 fire, wouldn't you expect those needles to have burned
21 in the fire?

22 A Potentially some of them, yes, but maybe not
23 entirely. Because, again, when I inspected the
24 vehicle, the vehicle yesterday, actually flammable
25 parts of it were still present. Like there was some

1 of the plastic material underneath, some of the tires.
2 There was actually -- I was kind of surprised by -- it
3 wasn't totally consumed. I think some of the needles
4 could have very well survived, especially when they're
5 covered up by material that's kind of -- you know,
6 that could be accumulating on top of -- falling down
7 and accumulating on top of the nest as it's burning.

8 Q And under your theory, these needles would
9 have been dry, correct?

10 A Dry.

11 Q Yeah. And freshly placed by a rodent?

12 A Freshly could be -- that could be relative.
13 Again, we don't know exactly when the nest was built.
14 Freshly could be within -- I mean, a nest could have
15 been built, again, prior to the fire, but at which
16 exact point, time point we don't really know.

17 Q In fact, you don't know when the nest was
18 built, if there was one, correct?

19 A I assume it was built before the fire.

20 Q But other than your belief that it was --
21 that there was in fact a rodent nest there before the
22 fire, you don't know when it was built, correct?

23 A Correct.

24 Q You don't know where on the undercarriage of
25 the vehicle it was built?

1 A I don't know exactly where. Again, we --

2 Q And you don't know what built it, correct,
3 whether it was a mouse or a rat or some other rodent?

4 A I don't know what type of rodent built the
5 nest.

6 Q Okay. If it was a -- if it was a mouse, how
7 many conifer needles would you expect the mouse to use
8 to build a nest?

9 A So a mouse -- again, I have a lot of
10 practical personal experience with this, because I --
11 I keep rodents as part of my research animals for -- I
12 have mouse colonies, some as testing animals, so I
13 observe them build nests all the time. A mouse will
14 build a nest -- if you can imagine a mouse laying down
15 on the ground, a mouse will collect enough material to
16 basically build a little capsule around itself. So
17 it's a relatively -- so I would say the nest would be
18 four to five inches across and maybe an inch or two
19 inches tall. So however many needles are necessary to
20 build an object of this size, but it's relatively
21 small.

22 Q Are we talking more than 200 needles?

23 A We're talking more than 200 needles.

24 Q More than 300 needles?

25 A That I can't say for sure, but I have in my

1 mind the exact size of that -- that the nest would be,
2 because, again, I have observed mice build nests from
3 other materials and --

4 Q And if it was a mouse, how tall would the
5 nest be approximately?

6 A It would be approximately anywhere from one
7 to two inches tall, because that's roughly how tall
8 the mouse is when it's upright.

9 Q Okay. And I think the answer is no, but you
10 didn't measure the distance between the top of that
11 metal plate and the exhaust pipe, did you?

12 A Not part of my -- I did look at it. I
13 didn't actually have a measuring tape with me. I
14 don't know exactly what the distance is. But again,
15 based on -- based on my inspection, based on the
16 photos, that distance is relatively -- it's relatively
17 small. It's within that range of one -- kind of
18 depends where along that whole exhaust system, but
19 roughly an inch or two.

20 Q Did you testify earlier that it was raining
21 on the night of the fire?

22 A I believe that -- what I read was that the
23 conditions were wet. It was November. It was at
24 night.

25 Q Not my question. Is it your testimony that

1 it was raining the night of the fire?

2 A I can't say if it was raining or the ground
3 was wet. It was post rain or -- I don't know.

4 Q Okay. That's fine. You don't know one way
5 or the other whether it was raining the night of the
6 fire, do you? Or do you?

7 A Again, I can't be certain, but this is just
8 part of my reading of some of the documents I was
9 provided. I remember seeing -- I can't say for sure
10 at this point.

11 Q Yeah.

12 A But I have -- I want to say that I
13 remember -- I don't know why it -- I remember seeing
14 that somewhere.

15 Q Seeing what, that it was raining the night
16 of the fire?

17 A Yeah. Something like -- yeah, that
18 conditions were wet.

19 Q You recognize there's a difference between
20 conditions being wet and it actually being raining on
21 the night of the fire, right?

22 A Right.

23 Q Do you know which it was?

24 A I'm not certain, yes.

25 Q Okay. And the last question, you know that

1 the fire department responded to this fire, correct?

2 A Correct.

3 Q And you know that the fire department used
4 hoses to put out the fire, which was burning not only
5 the vehicle, but the material around the vehicle,
6 correct?

7 A Yes.

8 Q And you know that water was sprayed under
9 pressure at the vehicle?

10 A Yes, I know that.

11 Q And you can't rule out that conifer needles
12 would have been blown by that pressured water into the
13 undercarriage of the vehicle, correct?

14 A We -- I can't rule it out. Again, there's
15 no -- no camera present. We don't know exactly
16 what -- how this happened, yes. I can't say for sure.

17 Q Okay. That's all I have.

18 MR. BREEN: All right. I'm going to do some
19 redirect, so go off the record.

20 THE VIDEOGRAPHER: Going off record. The
21 time is 2:56 p.m.

22 (Recess taken.)

23 THE VIDEOGRAPHER: Back on record. The time
24 now is 3:02 p.m.

25 EXAMINATION

1 BY MR. BREEN:

2 Q Doctor, I want to talk about Exhibit 50.

3 And you had mentioned that this rock wall here, it is
4 a prime place for rodent activity and rodent nesting;
5 is that correct?

6 A That's correct.

7 Q All right. When you went to the country
8 club yesterday, was your primary objective to gather
9 evidence of rodent activity at this rock wall?

10 A It was not.

11 Q Okay.

12 A I wasn't planning on that, no.

13 Q How many of these rocks that are along this
14 area did you -- did you look between?

15 A Just a relatively small section of that
16 wall. Just a couple of rocks really.

17 Q Okay. Did you bring a video camera or a big
18 fancy camera to take pictures and document evidence?

19 A No, we --

20 Q All right.

21 A -- didn't have a prior plan to examine the
22 wall.

23 Q Okay. Now, based on Honda's questions to
24 you a moment ago, I want to ask you this. If you
25 wanted to, or if you could, would you be able to

1 conduct an experiment to conduct research at this
2 location during the night to check for your prediction
3 that there's a lot of rodent activity there?

4 A That would actually be -- that would be a
5 relatively easy, I believe, experiment to conduct.
6 It's certainly possible to do an experiment like this,
7 especially during nighttime. It would be possible to
8 document rodent presence at the wall using either
9 video taping or other types of experiments. For
10 example, putting food out and later coming back. For
11 example, putting food out during the evening hours and
12 coming back perhaps the following day to see if the
13 food has been removed by rodents or looking for
14 chewing marks on the food. And I have done actually
15 these types of experiments in other places.

16 Q And based on your training and experience in
17 the field and as a rodentologist, do you have any a
18 hypothesis as to whether you believe that you would
19 find heavy rodent activity in that rock wall?

20 MR. RUSSELL: Objection. Calls for
21 speculation.

22 A I believe -- after looking at the wall, I
23 believe there are rodents present in that -- in the
24 general area, in the wall, in the possibly area
25 surrounding the wall.

1 Q Okay. As a rodentologist, if you were
2 talking to fellow rodentologists about this rock wall,
3 would it be necessary to conduct an experiment to see
4 if there are rodents there, or is this the type of
5 setting where without even conducting an experiment,
6 all rodentologists would agree, there's going to be
7 rodents in there?

8 MR. RUSSELL: Objection. Calls for
9 speculation.

10 A Again, the various -- as soon as I saw that
11 wall, I said, this is a prime rodent nesting habitat.
12 All of my rodentologist colleagues, they would agree,
13 without doing -- without conducting an experiment, I
14 believe they would immediately see this wall as a --
15 as a -- a potential source of rodents, as an ideal
16 place where enough rodents would choose to nest.

17 Q Okay. You were asked whether you had
18 examined Subarus and Fords and GMs. Do you remember
19 that line of questions?

20 A Yes.

21 Q Okay. Has anyone at Subaru, Ford, or GM
22 asked you to examine the design of their automobiles
23 with regard to rodent protection?

24 A I have never been asked to do that.

25 Q Okay. Are you aware of anyone working at

1 Subaru, Ford, or GM pointing out to you problems with
2 fires as it relates to rodents leaving nests in their
3 vehicles?

4 A Never -- I'm not aware of anything like
5 that. I've never heard of it.

6 Q Okay. What is the bigger problem with the
7 Honda CR-V, 2012 to 2014, the rodents getting in to
8 the vehicle or the nests not getting out of the
9 vehicle?

10 MR. RUSSELL: Objection. Calls for
11 speculation. Outside his area of expertise.

12 A In my opinion, the bigger problem is the
13 nests actually being -- it's -- once it's built in
14 there, it has a tendency to stay because of that
15 shielding.

16 Q Okay.

17 A Other vehicles, again, don't have that
18 shielding. So if a nest was built, again, during
19 vehicle use, possibly simply air movement on the
20 undercarriage, the nest would be blown out. On the
21 CR-V, it's protected.

22 Q And to be fair, you have not examined other
23 vehicles, right?

24 A I have not examined other brands of vehicles
25 with regard to this nest building behavior.

1 Q Okay. And your sole assignment here was to
2 assess whether the Honda CR-V, 2010 to 2012, was a
3 suitable place for rodents to build nests, correct?

4 A That's correct, yes.

5 Q All right. In order to know about a Subaru,
6 a Ford, or a GM, you would have to be invited to
7 conduct examinations of those vehicles as well,
8 correct?

9 A That's right, yes.

10 Q All right. You were asked about -- sorry.
11 (Exhibit No. 52 marked for identification.)

12 Q Okay. I've handed you Exhibit 52. Do you
13 recognize this?

14 A Yes. I recognize this picture.

15 Q What is this?

16 A This is the undercarriage of a 2012 Honda
17 CR-V.

18 Q Okay. You were asked about whether a rodent
19 could build a nest above the shield. What -- what is
20 this area here where I'm using -- circling with my
21 pen?

22 A Well, this is a metal crossmember. It kind
23 of runs across the car and is part of the -- again,
24 I'm not a -- I'm not a car expert, car design expert,
25 but this is a crossmember that runs across the car.

1 It could potentially also serve as a nesting location.

2 Q Okay. And so you could find a nest being
3 built on the crossmember?

4 A I believe so, yes.

5 Q All right. You were asked about whether the
6 needles found in Mrs. Foster's car could have come
7 from, you know, fire hoses at the fire scene. Do you
8 recall that?

9 A Yes.

10 Q And do you recall testifying that we don't
11 know exactly how the needles got into the car, because
12 we don't have a video camera, correct?

13 A That's correct.

14 Q Okay. But do you think it likely, more
15 likely that the needles got into Mrs. Foster's car,
16 via a rodent before the fire or into Mrs. Foster's car
17 when a firefighter spraying water on the car
18 afterwards?

19 A I absolutely believe more likely than not
20 that the needles were there prior to the fire. They
21 were brought in by a rodent. They were not introduced
22 by the -- the firefighters or the water spray. Again,
23 it's -- the pictures that I have seen are very
24 indicative of a rodent presence in that vehicle prior
25 to the fire.

1 Q Okay. We just talked a moment ago about
2 that crossmember. If a rodent nest were built on the
3 crossmember, could needles fall onto the shield below
4 it?

5 A Absolutely, yes, yes.

6 Q You have talked about your opinion about the
7 needles being an indication of rodent activity.
8 Rodents -- what is it about the needle that leads you
9 to strongly conclude that's -- that's what rodent
10 debris looks like?

11 A So the needles, again, it's an ideal rodent
12 nesting material for a number of reasons. One, it's
13 the correct size. It matches the size of the mouse.
14 A mouse wouldn't be carrying a large piece of nesting
15 material like a large heavy twig. It would be
16 collecting objects relatively small that it can
17 individually carry, make multiple trips and carry back
18 and forth to make a nest. Again, needles are dry
19 because of high resin content. They're dry -- they're
20 going to -- they're going to naturally repel water,
21 because they're conifer needles. So they stay dry
22 even in wet conditions, so they would be the preferred
23 nesting material amongst all the other nesting
24 materials that might be out there.

25 Q You testified that you reviewed Honda

1 reports that indicated that a fire in a Honda CR-V,
2 2012 to 2014, identified rodent debris as the cause of
3 the fire. Do you recall reading that?

4 A Yes.

5 Q At any time that you read one of these
6 reports where Honda determined that rodent debris
7 found in the CR-V, 2012 to 2014, caused a fire in
8 their Honda CR-V, at any point in any of those
9 reports, did you see Honda write, we think the debris
10 from the rodent might have gotten there from putting
11 out the fire?

12 A No. I remember, specifically remember
13 seeing that in all these cases, the Honda engineers
14 actually mentioned -- they would actually specifically
15 imply rodents. They would say, the material is most
16 likely brought in by rodents. So I remember seeing
17 that over and over in these reports.

18 Q In any of these reports, did you see Honda
19 ever say -- the questions you were posed here today,
20 how do you know -- maybe it was a fire hose that got
21 the rodent debris in the Honda CR-V?

22 MR. RUSSELL: Object to the form.

23 A They seem to basically assume that the
24 materials were bought in by a rodent. I remember
25 seeing that in -- across these reports.

1 Q Thank you, Doctor. No further questions.

2 A Thank you.

3 MR. RUSSELL: I have a very brief recross.

4 THE VIDEOGRAPHER: We're going off record.

5 The time now is 3:15 p.m.

6 (Pause in proceedings.)

7 THE VIDEOGRAPHER: Back on record, the time
8 now is 3:15 p.m.

9 EXAMINATION

10 BY MR. RUSSELL:

11 Q Hello, Doctor. I just have a few final
12 questions for you. Mrs. Foster's vehicle was off road
13 when the firefighters applied water to it, correct?

14 A That's correct.

15 Q And is that true of any of the other
16 vehicles that you read about in those Honda documents
17 that you saw yesterday?

18 A Some of them were -- I don't -- some were on
19 paved surfaces, yes.

20 Q Do you remember reading any reports where
21 the vehicle was off road when pressurized water was
22 applied to the vehicle to put the fire out?

23 A I don't remember seeing that in the reports.

24 Q Okay. Finally, I wrote down in quotes, you
25 said, other vehicles don't have that shielding. In

1 fact, you don't know that, do you?

2 A Well, I can mention, I have not inspected
3 any other brands of vehicles, so --

4 Q You can't say that other vehicles don't have
5 that shielding, can you?

6 A I can't say it for sure without looking at
7 other vehicles, yes.

8 Q Okay. These attorneys for the Foster
9 family, they have not asked you to compare the
10 underside of the CR-V to any other vehicle, have they?

11 A No, no.

12 Q And finally, do all cars have crossmembers?

13 A Again, I'm not a -- I'm not an engineer, car
14 expert. I don't know.

15 Q You don't know?

16 A I don't know.

17 MR. BREEN: That's all I have.

18 THE VIDEOGRAPHER: This is the end of media
19 unit one and concludes this deposition. The time now
20 is 3:17 p.m. Going off record.

21 (Deposition adjourned at 3:17 p.m.)

22 (Signature was reserved.)

23

24

25

Grzegorz Buczkowski

June 27, 2019

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S I G N A T U R E

I declare under penalty of perjury under the laws of the State of Washington that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the CHANGE SHEET page hereof.

Signed in _____, Washington on the _____ day of _____, 2019.

GRZEGORZ BUCZKOWSKI

Taken: June 27, 2019
Case Name: FOSTER v. HONDA
Cause No.: 2:17-cv-01727-JCC

C E R T I F I C A T E

State of Washington)
) ss.
County of King)

I, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, hereby certify that the foregoing deposition upon Oral examination of GRZEGORZ BUCZKOWSKI was taken before me on June 27, 2019 and transcribed under my direction;

That the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this date, July 8, 2019:

/S/Yvonne A. Gillette

Yvonne A. Gillette

Washington Certified Court Reporter

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